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NORTHERN DISTRICT OF CALIFORNIA

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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WHA

KEVIN MORRIS and GLENN R.  
SEMOW, On Behalf  
of Themselves and All Others  
Similarly Situated,

Plaintiffs,

vs.

BMW OF NORTH AMERICA, LLC,

Defendant.

CIVIL ACTION NO.

CLASS ACTION

BY FAX

JURY TRIAL DEMANDED

COMPLAINT

Plaintiffs, Kevin Morris ("Morris") and Glenn R. Semow ("Semow")(collectively

"Plaintiffs"), bring this action against Defendant, BMW of North America, LLC ("BMW" or  
"Defendant"), on behalf of themselves and all others similarly situated, and allege upon  
information and belief, except as to their own actions, the investigation of their counsel, and the  
facts that are a matter of public record, as follows:

INTRODUCTION

1. Plaintiffs bring this action to obtain restitution, disgorgement, injunctive and other relief individually and on behalf of the proposed classes defined below ("Classes" or "Class").
2. This action is brought to remedy violations in connection with Defendant's design, manufacture, marketing and distribution of 2006 and 2007 BMW 3 series vehicles equipped with run-flat tires manufactured by Bridgestone Firestone North American Tire, LLC ("Bridgestone")("subject vehicles"). The tires on the subject vehicles wear unevenly and prematurely, resulting in an extremely rough ride and excess noise from the tires. In addition, the

the subject vehicles. protection and related statutes based upon the design, manufacture, marketing and distribution of

7. This action is brought to remedy Defendant's violations of state consumer

### JURISDICTION AND VENUE

Court sits, are attached collectively as Exhibit "A." reflecting that BMW does business in this judicial district, including the county in which this County, California. Plaintiffs' Declarations, as required under Cal. Civ. Code § 1780(c), BMW maintains a principal place of business in California, located in Ontario, San Bernardino in New Jersey. BMW does business throughout California, including throughout this district.

6. Defendant, BMW, is a Delaware corporation with its principal place of business Emeryville, California. ("Potenza run-flat tires") from Weatherford BMW, an authorized BMW dealership located in 330i (VIN WBAVB335X6KS31426), equipped with Bridgestone Potenza RE050 run-flat tires Oakland, California. On or about September 25, 2006, Semow purchased a new 2006 BMW 5. Plaintiff, Semow, is and at all times relevant to this action has been, a resident of Chico, California.

4. Plaintiff, Morris, is and at all times relevant to this action has been, a resident of Ross, California. On or about August 4, 2005, Morris purchased a new 2006 BMW 330i (VIN WBAVB33596KKR79097), equipped with Bridgestone Turanza EL42 RFT run-flat tires ("Turanza run-flat tires"), from Courtesy Motors, an authorized BMW dealership located in

### THE PARTIES

Civil Code § 1790 *et seq.*, on behalf of themselves and the Class. Consumer Legal Remedies Act ("CLRA"), Civil Code § 1750 *et seq.* and the Song-Beverly Act, the California Secret Warranty Act ("Secret Warranty Act"), Civil Code § 1795.90 *et seq.*, the Competition Law ("UCL" or "Section 17200"), Business and Professional Code § 17200 *et seq.* 3. Plaintiffs assert claims individually and/or collectively under the Unfair tires on the subject vehicles must be replaced prematurely -- in many cases after less than 10,000 miles.

1 This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2)

2 because the matter in controversy, upon information and belief, exceeds \$5,000,000, exclusive of  
3 interests and costs, and this matter is a class action in which certain Class members are citizens  
4 of states other than those of Defendant.

5 9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, because Defendant

6 does business in this district, Plaintiffs reside in this district, and a substantial part of the events  
7 or omissions giving rise to Plaintiffs' claims occurred in this district.

### 8 CLASS ACTION ALLEGATIONS

9 10. Plaintiffs bring this action as a class action pursuant to Federal Rule of Civil  
10 Procedure 23(a) and (b)(3), on behalf of themselves and the following Classes:

#### 11 Turanza Class:

12 All current and former owners and lessees of 2006 and 2007 BMW  
13 3 series vehicles equipped with Turanza EL42 RFT run-flat tires  
14 manufactured by Bridgestone and sold or leased in California  
15 ("Turanza Class").

#### 16 Potenza Class:

17 All current and former owners and lessees of 2006 and 2007 BMW  
18 3 series vehicles equipped with Potenza RE050 run-flat tires  
19 manufactured by Bridgestone and sold or leased in California  
20 ("Potenza Class").

18 Excluded from the Classes are Defendant, as well as Defendant's affiliates, employees, officers  
19 and directors, including franchised dealers, any person who has experienced physical injury as a  
20 result of the defects at issue in this litigation, and the Judge to whom this case is assigned.  
21 Plaintiffs reserve the right to amend this Class definition if discovery and further investigation  
22 reveals that the Class should be expanded or otherwise modified.

23 11. The members of the Class are so numerous that joinder of all members would be  
24 impracticable. Plaintiffs reasonably estimate that there are thousands of Class members who  
25 purchased the subject vehicles. The members of the Class are readily identifiable from  
26 information and records in Defendant's possession, custody or control. The disposition of these  
27 claims will provide substantial benefits to the Class.

28 12. There are questions of law and fact common to the members of the Class that

1 predominate over any questions affecting only individual Class members, including, but not  
 2 limited to, the following:

3 a. Whether Defendant omitted and/or concealed material facts from Plaintiffs  
 4 and the Class regarding the defective Turanza and Potenza run-flat tires;

5 b. Whether, by the misconduct set forth in this Complaint, Defendant has  
 6 engaged in unfair or unlawful business practices with respect to the sale of the subject vehicles;

7 c. Whether, by its conduct, Defendant violated the UCL;

8 d. Whether, by its conduct, Defendant violated the CLRA;

9 e. Whether, by its conduct, Defendant violated the Sony-Beverly Act;

10 f. Whether the run-flat tires are defective; and

11 g. Whether, as a result of Defendant's misconduct, Plaintiffs and the Class  
 12 are entitled to equitable relief and/or other relief, and, if so, the nature of such relief.

13 13. Plaintiffs' claims are typical of the claims of the members of the Class. Plaintiffs  
 14 have no interests antagonistic to those of the Class and are not subject to any unique defenses.

15 14. Plaintiffs will fairly and adequately protect the interests of all members of the  
 16 Class and have retained attorneys experienced in class action and complex litigation.

17 15. A class action is superior to all other available methods for the fair and efficient  
 18 adjudication of this controversy for, *inter alia*, the following reasons:

19 a. It is economically impractical for members of the Class to prosecute  
 20 individual actions;

21 b. The Class is readily definable;

22 c. Prosecution as a class action will eliminate the possibility of repetitious  
 23 litigation; and

24 d. A class action will enable claims to be handled in an orderly and expeditious  
 25 manner. A class action will save time and expense and will ensure uniformity of decisions.

26 16. Plaintiffs do not anticipate any difficulty in the management of this litigation.

27 17. Defendant has, or has access to, address information for the Class members,  
 28 which may be used for the purpose of providing notice of the pendency of this action.

**SUBSTANTIVE ALLEGATIONS**

18. This class action is brought on behalf of all current and former owners and lessees

of the subject vehicles sold or leased in California.

19. The subject vehicles at issue are manufactured, marketed and sold by BMW

through its established network of licensed dealers and distributors.

20. The Turanza and Potenza run-flat tires are manufactured by Bridgestone and,

pursuant to an agreement between the companies, are furnished by Bridgestone to BMW for the

express purpose of placing them on the subject vehicles prior to the distribution and sale of the

subject vehicles to the public. The Turanza run-flat tires are placed on the majority of the subject

vehicles, while the Potenza run-flat tires are placed on certain versions of the subject vehicles

equipped with a "Sport" package.

21. Prior to marketing and selling the subject vehicles to the Plaintiffs and members

of the Class, Defendant knew or should have known that the Turanza and Potenza run-flat tires

were defective, resulting in premature and uneven tire wear (including excessive noise), requiring

that the tires be replaced after being used, in many cases, less than 10,000 miles, and that such

wear was not consistent with the reasonable expectations of consumers regarding tread wear on

the subject vehicles. In spite of that knowledge, BMW placed the run-flat tires on the subject

vehicles. Vehicles used primarily for personal use are typically driven between 12,000 and

15,000 miles a year. Thus, the tires on the subject vehicles typically last less than 18 months

(and often less than 12 months) under normal driving conditions.

22. Prior to marketing and selling the subject vehicles to Plaintiffs and members of

the Class, Defendant knew or should have known that the need to replace the run-flat tires after

as little as 10,000 miles (or less) was a material fact that should have been disclosed to the

public.

23. Prior to marketing and selling the subject vehicles to Plaintiffs and members of

the Class, BMW, as the manufacturer of the subject vehicles, performed, or should have

performed, testing on the Turanza and Potenza run-flat tires, to determine that the tires were

subject to premature and uneven tire wear (and excessive noise).

24. Notwithstanding its knowledge, BMW knowingly and purposefully failed to disclose to Plaintiffs and members of the Class that the run-flat tires had an unreasonably short life-span and would require far more frequent replacement than normal tires. Defendant's omissions are particularly egregious in light of the fact that the run-flat tires are appreciably more expensive than conventional tires and, thus, owners and lessees of the subject vehicles are not only required to replace the run-flat tires more frequently than anticipated, but they must also do so at extraordinary expense.

26. After receiving numerous complaints from owners of the subject vehicles, BMW, in January 2007, issued a Technical Service Bulletin No. SI B 36 06 06 ("TSB"), acknowledging that the irregular and premature tire wear and attendant loud noise was occurring, often at less than 10,000 miles.

27. Upon information and belief, although the TSB did not expressly reference the Potenza run-flat tires, those tires, likewise, are suffering from the same premature and uneven tire wear and attendant noise.

28. The TSB issued by BMW constitutes a secret warranty adjustment program pursuant to which BMW, with respect to the subject vehicles equipped with the Turanza run-flat tires, now (a) automatically pays for full replacement of tires (including 100% of labor) experiencing premature and/or irregular tire wear prior to 10,000 miles and (b) automatically pays for fifty percent (50%) of the replacement of tires (including 100% of labor) experiencing premature and/or irregular tire wear prior to 20,000 miles. BMW, however, has failed and refused to notify customers, including Plaintiff Morris, regarding the existence of the secret warranty program in the manner required by the Secret Warranty Act.

29. The secret warranty program offered to pay for all or part of the cost of repairing a condition in the subject vehicles that may substantially affect the vehicles' durability, reliability and/or performance and did not amount to ad hoc adjustments on a case-by-case basis but, instead, constituted a formal program or policy to cover certain repairs under the subject vehicles' warranty for members of the Turanza Class.

30. In light of Defendant's knowledge regarding the defects and problems detailed



1 above, the provision of a limited warranty with respect to the subject vehicles and their tires,

2 under all of these circumstances, constitutes an unlawful, unfair and fraudulent business practice,

3 and, under all of the circumstances, the limited warranties accompanying the subject vehicles are

4 unconscionable.

#### 5 Plaintiff Morris' Experiences With His BMW

6 31. On or about August 4, 2005, Morris purchased a new 2006 BMW 330i equipped

7 with Turanza run-flat tires from Courtesy Motors, an authorized BMW dealership located in

8 Chico, California. The purchase was made pursuant to a written contract of sale for Morris's

9 personal use.

10 32. At the time of the purchase, Defendant failed to disclose that the Turanza run-flat

11 tires were defective and would experience premature and uneven tread wear (and attendant loud

12 noise) requiring that the tires be replaced, often after being used for less than 10,000 miles.

13 33. Following his purchase, Morris operated his vehicle in a manner consistent with

14 its intended use. On or about January 15, 2007, Morris took his vehicle to Sonnen BMW (his

15 odometer read 15,416) because his tires were making excessive noise while he was driving his

16 vehicle. The dealer recommended that all four tires be replaced. On March 27, 2007, Morris had

17 all four tires replaced at Sonnen BMW. He was required to pay for two of the replacement tires,

18 at a total cost of \$450 plus sales tax.

#### 19 Plaintiff Semow's Experiences With His BMW

20 34. On or about September 25, 2006, Semow purchased a new 2006 BMW 330i

21 equipped with Potenza run-flat tires from Weatherford BMW, an authorized BMW dealership

22 located in Emeryville, California. The purchase was made pursuant to a written contract of sale

23 for Semow's personal use.

24 35. At the time of the purchase, Defendant failed to disclose that the Potenza run-flat

25 tires were defective and would experience premature and uneven tread wear requiring that the

26 tires be replaced, often after being used for less than 10,000 miles.

27 36. Following his purchase, Semow operated his vehicle in a manner consistent with

28 its intended use. On or about December 19, 2006, Semow took his vehicle to Weatherford BMW

28 Secret Warranty Act, Civil Code § 1795.90(a).  
 27 43. Plaintiffs are and, at all pertinent times, were consumers within the meaning of the

26 Class.

25 42. Plaintiffs bring this cause of action on behalf of themselves and on behalf of the  
 24 fully herein.

23 41. Plaintiffs reallege and incorporate the above allegations by reference as if set forth

22  
 21 **FIRST CAUSE OF ACTION**  
**(Violations Of The UCL And Secret Warranty Act)**

20 necessary to qualify for warranty coverage.

19 40. Plaintiffs and Class members have satisfied all obligations and preconditions  
 18 the face of its knowledge and conduct, was unconscionable and void.

17 10,000 miles. As such, BMW's attempt to disclaim any and all coverage for the run-flat tires, in  
 16 noise), requiring that the tires be replaced after being used for, in many instances, less than

15 were defective and would experience significant premature and uneven tread wear (and excessive  
 14 the subject vehicles prior to marketing and selling the subject vehicles to Plaintiffs and the Class

13 knew or should have know that the Turanza and Potenza run-flat tires it selected and placed on  
 12 39. Although BMW's express warranty purports to disclaim coverage for tires, BMW

11 covering 4 years or 50,000 miles, whichever comes first.

10 38. BMW provides Plaintiffs and Class members with an express, written warranty

9 **BMW's Express Warranty**

8 for the costs he was forced to incur in replacing the Potenza run-flat tires.  
 7 replace the prematurely worn tires at great cost to himself. BMW refused to reimburse Semow

6 37. Semow contacted BMW and placed the company on notice that he was required to  
 5 facility, which replaced the two tires for \$771.25 on December 23, 2006.

4 BMW to replace the prematurely worn tires, Semow took his vehicle to an independent repair  
 3 \$1,000 to replace the two run-flat tires (\$500 per tire). Rather than pay \$1,000 to Weatherford

2 vehicle had only been driven 16,214 miles). The dealership informed Semow that it would cost  
 1 and was informed that the rear tires were worn and would need to be replaced (even though the



1 Defendant BMW is, and at all pertinent times, was a manufacturer within the  
 2 meaning of the Secret Warranty Act, Civil Code § 1795.90(b).  
 3 45. BMW adopted an adjustment program within the meaning of the Secret Warranty  
 4 Act, Civil Code § 1795.90(b), when it adopted and implemented said program through issuance  
 5 of the TSB in January 2007.  
 6 46. Upon information and belief, BMW adopted the secret warranty program more  
 7 than ninety (90) days prior to this date and, as reflected above, this adjustment program addressed  
 8 conditions that may substantially affect the subject vehicles' durability, reliability or  
 9 performance.  
 10 47. Despite establishing the adjustment program identified above, BMW has failed  
 11 and refused to notify owners and lessees of the subject vehicles equipped with Turanza run-flat  
 12 tires as to the existence of these programs as required by the Secret Warranty Act, and, upon  
 13 information and belief, has no intention of so notifying owners and lessees of the subject  
 14 vehicles. In addition, BMW has failed and refused to establish a procedure to reimburse  
 15 consumers who are eligible under an adjustment program and who incur expenses for repair of a  
 16 condition (*i.e.*, replacement of tires) prior to acquiring knowledge of the adjustment program.  
 17 48. By the foregoing conduct, BMW has failed to comply with the Secret Warranty  
 18 Act.  
 19 49. By failing to extend the TSB to the Potenza run-flat tires, BMW engaged in unfair  
 20 practices under Section 17200.  
 21 50. Defendant has engaged in unfair, unlawful, and fraudulent business practices as  
 22 set forth above.  
 23 51. By engaging in the above-described acts and practices, Defendant has committed  
 24 one or more acts of unfair competition within the meaning of Section 17200.  
 25 52. Defendant's acts and practices have deceived and/or are likely to deceive  
 26 members of the consuming public and impact the public interest.  
 27 53. Defendant's challenged policies and practices cause harm to victims (here, the  
 28 Class), which outweighs any purported benefit attributable to these policies and practices.

1 Defendant's acts and practices are unlawful because they violate Civil Code §§  
2 1572, 1709, 1710, 1750 *et seq.*, 1770 *et seq.*, 1790 *et seq.*, 1795.90 *et seq.*, and because they rise  
3 to the level of a breach of the implied warranty of merchantability.  
4 55. Plaintiffs have suffered injury in fact, including, but not limited to, paying more to  
5 replace the run-flat tires more frequently than they reasonably anticipated and diminution in  
6 value of the subject vehicles.  
7 56. Defendant's violations of Section 17200 and BMW's violation of the Secret  
8 Warranty Act continue through the date of this Complaint's filing and, absent a Court order,  
9 Defendant will not comply with its obligations under Section 17200.  
10 57. Plaintiffs, on their own and on behalf of all members of the Class, seek a court  
11 order requiring Defendant to immediately desist the above-described acts of unfair competition  
12 and for all further relief which is available, appropriate and just to grant, under the UCL and the  
13 Secret Warranty Act, including attorneys' fees and costs pursuant to, *inter alia*, Cal. Code of Civ.  
14 Proc. § 1021.5.  
15 **SECOND CAUSE OF ACTION**  
16 **(Violations Of The CLRA)**  
17 58. Plaintiffs reallege and incorporate the above allegations by reference as if set forth  
18 fully herein.  
19 59. Plaintiffs bring this cause of action on behalf of themselves and the Class.  
20 60. At all relevant times, Plaintiffs were each a "consumer," as that term is defined in  
21 Civ. Code § 1761(d).  
22 61. At all relevant times, the subject vehicles constituted "goods," as that term is  
23 defined in Civ. Code § 1761(a).  
24 62. At all relevant times, Defendant was a "person," as that term is defined in Civ.  
25 Code § 1761(c).  
26 63. At all relevant times, Plaintiffs' purchases of the subject vehicles with the  
27 Bridgestone run-flat tires constituted a "transaction," as that term is defined in Civ. Code §  
28 1761(e).

At all relevant times, Defendant provided "services" to Plaintiffs and the Class, within the meaning of Civil Code § 1761(b).

The CLRA provides in relevant part that "[t]he following unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer are unlawful: (19) inserting an unconscionable provision in [a] contract." Civil Code § 1770(a)(19).

By excluding tires from coverage under the warranty provided with the subject vehicles at a time when Defendant knew or should have known that the run-flat tires were defective and would need to be replaced frequently (often after less than 10,000 miles), Defendant violated the CLRA by inserting an unconscionable provision in a contract with no warranty coverage for the run-flat tires.

Defendant's violations of the CLRA occurred as a result of common misrepresentations, omissions and statements of material facts that were important to Plaintiffs and to all Class members, and upon which Plaintiffs and all Class members relied upon and/or reasonably could be expected to rely upon under all of the circumstances.

Civil Code § 1780(a)(2) permits any court of competent jurisdiction to enjoin practices that violate Civil Code § 1770.

Plaintiffs and the Class are also entitled to recover attorneys' fees and costs pursuant to Civil Code §§ 1780 and 1781.

Plaintiffs and Class members, as described herein, have suffered damages and/or injury in fact as a result of Defendants' violations of the CLRA.

Under Civil Code § 1782(a), the required thirty (30) day notice was provided to Defendant before the filing of this Complaint pursuant to Civil Code § 1782(d) but, nevertheless, Defendant failed and refused to take appropriate corrective action. Moreover, since no claim for damages is asserted in this Complaint at this time under the CLRA, and only injunctive relief is currently sought, and Plaintiffs have again provided Defendant with notice under the CLRA, Defendant will be afforded an additional thirty (30) days in which to cure its breaches of the CLRA, and to correct, repair, replace and otherwise rectify the violations of Civil Code § 1770,

1 before it faces any potential claim for damages under the CLRA.

2 **THIRD CAUSE OF ACTION**

3 **(Violations Of The Song-Beverly Act - Implied Warranty)**

4 72. Plaintiffs reallege and incorporate the preceding paragraphs as if fully set forth

5 herein.

6 73. The subject vehicles are "consumer goods," as that term is defined by the Song-

7 Beverly Act.

8 74. BMW is a "manufacturer," as that term is defined by the Song-Beverly Act.

9 75. Plaintiffs are "buyers," as that term is defined by the Song-Beverly Act.

10 76. At all pertinent times, BMW also was a merchant in the sale of the subject

11 vehicles to Plaintiffs and the Class members and, by operation of law, BMW provided Plaintiffs

12 and the Class members with an implied warranty of merchantability in the sale and lease of the

13 subject vehicles.

14 77. During the manufacturing process, and prior to the placement of the run-flat tires

15 on the subject vehicles, as well as prior to marketing and selling the subject vehicles, BMW,

16 through testing or other means, knew or should have known that the Turanza and Potenza run-

17 flat tires were defective and subject to premature and uneven tire wear (and excessive noise).

18 78. Plaintiffs' vehicles and the subject vehicles are not fit for the ordinary purposes

19 for which such automobiles are used, because the premature and uneven tire wear (and excessive

20 noise) at issue results in the occupants of the subject vehicles being forced to drive on

21 significantly impaired tires, or face the risk of having to do so, which does not meet with the

22 reasonable expectations of Plaintiffs or any other owners and lessees as to the manner in which

23 the subject vehicles should perform when used for their ordinary purposes, because the manner in

24 which the subject vehicles perform is so deficient and below a minimum level of quality so as to

25 render them unfit for their ordinary use and purpose.

26 79. By the conduct described herein, including, but not limited to, marketing and

27 selling the subject vehicles with the condition described in this Complaint, as well as by failing

28 to repair the subject vehicles by replacing the run-flat tires as needed, BMW breached the

1 implied warranty of merchantability.

2 80. Plaintiffs and the Class members have been damaged as a result of BMW's

3 breach of the implied warranty of merchantability.

4 81. Plaintiffs and Class members are entitled to all remedies available under the

5 Song-Beverly Act for breach of implied warranty.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray

8 for judgment against Defendant as follows:

9 A. An order certifying this case as a class action and appointing Plaintiffs and their

10 counsel to represent the Class;

11 B. Restitution and disgorgement to the extent permitted by applicable law, together

12 with interest thereon from the date of payment, to the victims of such violations;

13 C. Civil penalties to the extent permitted by applicable law;

14 D. To the extent that Defendant has continued to market and sell the subject vehicles,

15 and otherwise engage in the conduct challenged in this action, an order requiring Defendant to

16 immediately cease its wrongful conduct as set forth above, as well as enjoining Defendant from

17 continuing to conceal material information and conduct business via the unlawful and unfair

18 business acts and practices complained of herein; and an order requiring Defendant to engage in

19 a corrective notice campaign;

20 E. For reasonable attorneys' fees and the costs of prosecuting this action;

21 F. For statutory pre-judgment interest; and

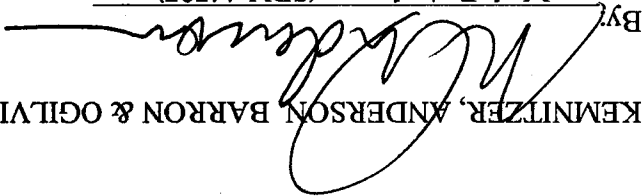
22 G. For such other relief as this Court may deem just and proper.

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**JURY DEMAND**

Plaintiffs demand a trial by jury on all causes of action so triable.

KEMNITZER, ANDERSON, BARRON & OGILVIE, LLP

  
By: \_\_\_\_\_

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Attorneys for Plaintiffs



Exhibit A  
Morris v BMW Complaint

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KEVIN MORRIS and GLENN R.  
SEMOW, On Behalf  
of Themselves and All Others  
Similarly Situated,  
Plaintiffs,

CLASS ACTION

CIVIL ACTION NO.

BMW OF NORTH AMERICA, LLC,  
Defendant.

JURY TRIAL DEMANDED

**DECLARATION OF KEVIN MORRIS**

I, Kevin Morris, declare under penalty of perjury as follows:

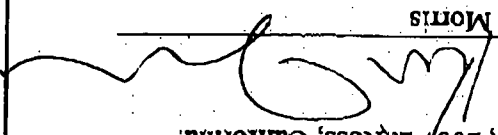
1. I make this declaration based upon my personal knowledge except as to those matters stated herein that are based upon information or belief, which I believe to be true.

2. I am an adult citizen of the State of California. I reside in Ross, California and I am a named Plaintiff in this litigation.

3. I purchased a new 2006 BMW 330i equipped with Bridgestone Turanza EL42 RFT run-flat tires on or about August 4, 2005 from Courtesy Motors in Chico, California.

4. To the best of my knowledge, information and belief, Defendant, BMW of North America, LLC, is a Delaware corporation that does business throughout this judicial district, including the county in which this Court sits.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 30 day of May, 2007 at Ross, California.

  
Kevin Morris

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CIVIL ACTION NO.

CLASS ACTION

JURY TRIAL DEMANDED

Defendant.

BMW OF NORTH AMERICA, LLC,

VS.

Plaintiffs,

KEVIN MORRIS and GLENN R.  
SEMOW, On Behalf  
of Themselves and All Others  
Similarly Situated,

I, Glenn R. Semow, declare under penalty of perjury as follows:

1. I make this declaration based upon my personal knowledge except as to those matters stated herein that are based upon information or belief, which I believe to be true.

2. I am an adult citizen of the State of California. I reside in Oakland, California and I am a named Plaintiff in this litigation.

3. I purchased a new 2006 BMW 330i equipped with Bridgestone Potenza RE050

run-flat tires on or about September 25, 2006 from Weatherford BMW in Emeryville, California. To the best of my knowledge, information and belief, Defendant, BMW of North

America, LLC, is a Delaware corporation that does business throughout this judicial district, including the county in which this Court sits.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 30<sup>th</sup> day of May, 2007 at Oakland, California.

Glenn R. Semow

